

STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 19C
ROWAN COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2020 OCT 14 P 12:33

ROWAN CO., C.S.C.

BY)

CA

IN RE: RESUMPTION OF JURY)

TRIALS IN JUDICIAL)

DISTRICT 19C)

)

ADMINISTRATIVE ORDER

THIS MATTER IS BEFORE THE COURT pursuant to a Directive by North Carolina Supreme Court Justice Cheri Beasley that each Senior Resident Superior Court Judge prepare and submit to her a plan for resumption of jury trials. After consultation and collaboration with other stakeholders in Judicial District 19C, the undersigned Superior Court Judge submitted the plan to the Chief Justice which was approved on October 12, 2020. The undersigned Senior Resident Superior Court Judge hereby exercises her inherent authority and discretion in the interests of the proper administration of justice and directs that the plan below entitled "19C Judicial District (Rowan County) Plan for Resumption of Jury Trials" including all attachments, be followed with regard to jury trials. The undersigned also exercises her discretion and further orders that no jury trials may resume until such time as all necessary equipment is in place and functioning correctly.

So ordered, this the 14 day of October, 2020.



Anna Mills Wagoner
Senior Resident Superior Court Judge

19C JUDICIAL DISTRICT (ROWAN COUNTY) PLAN FOR RESUMPTION OF JURY TRIALS

The undersigned Senior Resident Superior Court Judge and COVID-19 Coordinator in consultation with Chief District Court Judge Charlie Brown; Clerk

of Superior Court, Jeff Barger; District Attorney, Brandy Cook; 19 C Bar Counselor, Jennifer D. Hammond; defense attorney, James Davis; Sheriff, Kevin Auten; Chief Magistrate, Todd Wyrick; Rowan County Facilities Manager, Don Bringle; District Court Trial Court Coordinator, Marci Ward; and Rowan County Health Department representative, Meredith Littell submit the following plan for the resumption of jury trials in Rowan County Superior Court. Senior Resident Superior Court Judge Anna Mills Wagoner and Chief District Court Judge Charlie Brown confirm to Chief Justice Cheri Beasley that they have reviewed all of the Chief Justice's emergency directives pertaining to COVID-19 and the minimum requirements for the resumption of jury trials; further that after receiving input from the stakeholders described above as well as local Rowan County Health Department officials and based on the foregoing have concluded that it would be reasonable for the 19C Judicial District to proceed with jury trials under the plan set out below as long as all appropriate standards for the health and safety of participants are followed. The Senior Resident Superior Court Judge, in her discretion, may delay resumption or suspend operation of jury trials in Judicial District 19C in the interest of local health and safety if local health conditions warrant.

I. Summoning and Management of Jurors During the COVID-19 Pandemic:

1. A larger number of jurors than usual will be summoned for each jury session of court taking into account the projected decline in attendance because of COVID-19 as well as deferral requests because of COVID-19.
2. A letter from Judge Wagoner explaining safety precautions will be attached to each jury summons. (See Attachment A)
3. Jurors will report in staggered sessions (35-40 in the morning at 9:30 a.m. and a similar number in the afternoon at 2:00 p.m.) Online orientation sessions are not feasible for our Judicial District because not all our potential jurors have access to computers; therefore, orientation will be provided by our Clerk of Superior Court with the use of a video.
4. District Court Judges are encouraged to be flexible in excusing/deferring individuals who may not be able to serve taking into account the CDC guidelines and the need to work for an individual who has been out of work because of the Pandemic. Jurors are encouraged to submit their request to be excused or deferred from jury service in advance of the court scheduled jury reporting date.
5. Jurors will be told to assemble in the jury assembly room which can accommodate 35 people, taking into account the social

- distancing requirements. Chairs and tables in the jury assembly room will be situated at least 6 feet apart from one another. The refrigerator currently in the jury assembly room will be removed and jurors will be encouraged to bring their own beverages and/or food.
6. Jurors who do not have their own face mask will be provided one when he or she enters the courthouse and will be required to wear the mask while in the courthouse and courtroom.
 7. Once the jurors have received the orientation from the Clerk of Court, the jurors will be led into the Superior Courtroom where they will be seated on every other pew at a social distance of at least 6 feet from one another.
 8. The pews are currently being recovered in vinyl which can be easily cleaned and disinfected numerous times during the day. The social distancing seating will be identified by red markings on the jury pews.
 9. Jurors who are selected out of the first group (9:30 a.m. group) will be released and given a telephone number to call to determine the specific time he or she should report back to begin jury service.
 10. The process will be the same for jurors reporting at 2:00 p.m. and/or at 9:30 a.m. the following day and 2:00 p.m. the following day if necessary.
 11. At least two alternate jurors will be selected in order to ensure that the trial can proceed if any juror becomes ill.

II. Courthouse Facility

The Senior Resident Superior Court Judge has conducted a safety "walk-through" with the Clerk of Court and representatives from the Rowan County Health Department and Sheriff's Department which included the Jury Assembly Room, entrances to and from the courthouse and courtroom, jury box configuration and deliberation rooms. The Senior Resident Superior Court Judge in consultation with the other members of the COVID-19 courthouse committee has determined that our local court facilities are adequate to convene socially distanced jury trials so long as the following measures are implemented:

1. The Superior Courtroom will be configured to comply with social distancing requirements as follows:
 - a. The affixed chairs currently in the jury box will be removed and replaced with 4 armchairs which will be placed at the socially distanced requirements. The remaining 8 jurors will be seated in armchairs surrounding the original jury box at the socially distanced measure of 6 feet. The alternate

jurors will be seated on the first row in the audience of the courtroom at least 6 feet apart. The alternate pew and the others surrounding it will be clearly identified and designated as alternate juror areas to prevent others from sitting near the alternate jurors.

- b. The jury chairs which are either leather or vinyl will be cleaned and disinfected at least twice a day.
- c. The following areas will be surrounded by plexiglass and/or glass shield: the witness stand on 3 sides, the Judge's bench on 3 sides and the workstation of the courtroom clerk on 3 sides. Each plexiglass shield will have an open space through which documents and court files may be passed to the witness, judge and/or clerk.
- d. The court reporter will be relocated to an area that is not below the witness stand.
- e. Counsel tables will be moved and relocated to spaces which are perpendicular to the Clerk's workstation. The Counsel tables will be 6 feet apart from each other and will face the jury. (Please see Attachment B for diagram of the courtroom).
- f. Counsel tables are approximately 18 feet from the area where the jurors will be seated, but with microphones hearing should not be a problem. (At this point, neither the defense, nor the District Attorney are requesting plexiglass shields at counsel tables.)

III. Trial Procedure During the Pandemic

- 1. If feasible, jurors will be asked to complete written pre-trial questionnaires to be submitted to the court file electronically or by mail, in order to speed up voir dire so as to reduce the time that the jury pool has to spend in the courtroom.
- 2. All participants and spectators in the courtroom during the trial will be required to wear masks.
- 3. Counsel should remain seated at the counsel table during witness and juror examination.
- 4. If available, podiums should be used by attorneys for opening statements and closing arguments. If counsel stands to present opening statements and closing arguments, the attorneys shall remain 6 feet away from all other persons in the courtroom including the jury. Jurors will be asked to bring their own pens/pencils from home. Any pens or pencils that are supplied by the court to the jury will be cleaned at the end of each day. Pens and pencils may not be shared by jurors. Witnesses who are testifying

from the witness stand may remove his or her mask (in criminal cases) when testifying. Witnesses in civil cases will be required to wear masks while testifying. In the discretion of the presiding judge, attorneys and witnesses may remove his or her mask while asking questions or testifying if needed to make the questioning and testimony easier to be heard.

5. Recesses will be taken throughout the day to permit jurors to remove their mask by going outdoors. However, during recess jurors should remain at a social distancing distance. Microphones will be cleaned after each user and at the end of the day. Alternatively, alcohol wipes may be used after each person uses the microphone.
6. Bench conferences will not be allowed in the courtroom in front of the judge's bench. Bench conferences will be conducted in Superior Court chambers. Jurors and witnesses will be sworn by affirmation rather than swearing on a religious text.
7. The use of technology will be expanded to manage and view exhibits as possible (view on a screen rather than handing out physical copies). Attorneys and parties will be required to prepare marked original exhibits to be used at trial as well as copies of exhibits for the opposing attorneys, the judge, each witness and the court reporter.
8. The attorney/parties will be required to provide copies for EACH juror of any exhibit they wish to publish in order to eliminate the passing of a single exhibit between jurors. These copies should be made in advance of the trial. If it is impossible to provide multiple copies of an exhibit for the jurors, jurors should sanitize their hands and be given gloves to wear prior to the handling of the exhibit. Once the juror has viewed the exhibit, the gloves should be disposed of and each juror shall sanitize his or her hands again.
9. Notebooks used by the jurors for taking notes will be sanitized after each juror has departed for the day and prior to the juror using it again the following day.

IV. Calendaring Cases for Trial

1. Consistent with the task force's recommendations, on or after the date specified by the Chief Justice as the earliest date allowing for presumption of jury trials and upon confirmation of readiness after consultation with the Clerk of Superior Court, the COVID-19 Coordinator and the Senior Resident Superior Court Judge, **civil jury trials** may be calendared. Consistent with the task force's recommendations, the first matters to be scheduled for a jury trial

will be simple, civil cases which may be completed in 2-3 days. The attorneys for the parties will be strongly encouraged by the presiding judge to stipulate to a 6-person jury. Six person juries in civil trials will reduce the number of people in the courtroom as well as the amount of time required for jury selection.

V. Calendaring of Criminal Cases for Trial

The first criminal jury trials set for hearing will be lower level felonies (e.g., Class H or I) or misdemeanor appeals that are expected to take less than 1 week to try. No complex civil cases, high level felony cases (B2 or higher without consent of the parties) or any case expected to require more than 1 week for trial will be calendared within the first 90 days after the date specified by the Chief Justice for the resumption of jury trials. Based on the recommendations of the task force, during the first 90 days after the Chief Justice's Order allowing for the resumption of jury trials, criminal cases selected for trial will be prioritized by the SENIOR RESIDENT SUPERIOR COURT JUDGE in consultation with the elected District Attorney, defense counsel or senior member of the Criminal Defense Bar and the COVID-19 coordinator (AMW). The Senior Resident Superior Court Judge will give careful consideration to the following factors in conducting the prioritization of criminal trials:

- a. the extent to which a jury trial of the case can be conducted with safety for the health of all participants
- b. the readiness of the case for trial as determined by the attorney for each party
- c. the age of the case
- d. whether or not the defendant is in custody pending trial
- e. the complexity, number of parties and expected length of the trial
- f. the consent or lack thereof of a defendant and defense counsel to proceed to trial at this time. Attention should be given to legitimate concerns over the health and safety or the likelihood of unfairness arising from protective measures taken during the court proceeding
- g. the constitutional rights that would be affected by any further delay of the proceeding
- h. the significance of the rights and interests at stake in the proceeding as compared to those in other cases that are scheduled for the same time
- i. the complexity of the proceeding

- j. the need for and the availability of foreign language or sign language interpreters
- k. the availability or unavailability of the presiding judicial official, lawyers, other needed court staff, parties, and witnesses because of scheduling conflicts
- l. the availability of the court reporter and/or the ability to record proceedings
- m. whether the pretrial release conditions could be modified to allow the defendant in criminal cases to be released from custody pending trial
- n. the offense class
- o. the number and reasons for prior continuances
- p. the likely length of such trial
- q. the number of defendants and any health issues of the defendant
- r. require that all attorneys be healthy and not symptomatic before coming to court and requiring that they report to the court if they are not healthy or are symptomatic so that they may receive further direction.

VI. Miscellaneous

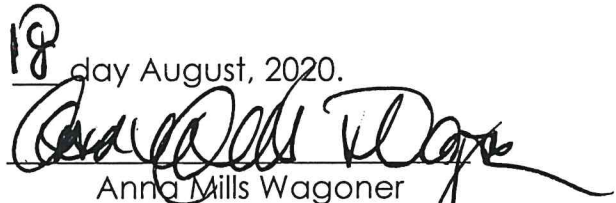
1. All attorneys will be required to confirm to the court that he or she is healthy and not symptomatic before coming to court. Further, all attorneys will be required to report to the court if they are not healthy or are symptomatic so they may receive further direction.
2. All members of the jury pool, actual jurors, and other trial participants will be screened daily by passing through a temperature detection tunnel located at each entrance to the courthouse. An individual with an elevated temperature will not be allowed entry into the court facility. He or she will be given instructions as to when to report back to the courthouse. Those jurors with normal temperature will be directed to the jury assembly room where he/she will complete the AOC model daily screening document each day. (Attachment C). The document shall be examined by the clerk of court or assistant clerk, who will notify the presiding judge if any of the answers are yes. All other trial participants shall confirm to the presiding Judge each day that he/she is healthy and asymptomatic

It should be noted that if a juror or other trial participant reports a COVID-19 positive test result, all people who were within 6

feet of that person will be required to quarantine for 14 days. If the exposure occurred for many hours in a small courtroom with poor ventilation, all trial participants may need to be quarantined even if social distancing was followed. The Court will follow the recommendations of the Health Department for possible quarantine and/or contact tracing of jurors and participants.

In closing, the COVID-19 pandemic appears to present rapidly changing circumstances and at this date there is no way to know if cases will increase in this county and surrounding counties during the coming months. Therefore, the undersigned Senior Resident Superior Court Judge will exercise her discretion even after the moratorium on jury trial has been lifted by the Chief Justice, to ensure that ramping up jury trials will not result in increased COVID-19 spread and that jury trials may be conducted safely while protecting the health and safety of all who participate in the judicial process, including court officials and employees, lawyers and litigants, jurors, witnesses and members of the public who need to visit court facilities.


Respectfully submitted this the 18 day August, 2020.



Anna Mills Wagoner

Senior Resident Superior Court Judge
COVID-19 Coordinator

modified and consented

to Oct 12, 2020. 

We concur:

Charlie Brown, Chief District Court Judge

Jeff Barger, Clerk of Superior Court

Brandy Cook, District Attorney

James Davis, defense attorney

Jennifer D. Hammond, 19C Bar representative

Kevin Auten, Sheriff

Todd Wyrick, Chief Magistrate

Don Bringle, Rowan County Facilities Manager

Marci Ward, District Court Trial Court Coordinator

Meredith Littell, Rowan County Health Department Public Health
Nursing Director II

ATTACHMENT A

To: Potential Jurors for Rowan County, North Carolina

From: Anna Mills Wagoner, Senior Resident Superior Court Judge

JURY SERVICE IS ONE OF THE CORNERSTONES OF OUR SYSTEM OF JUSTICE IN OUR NATION AND OUR STATE. YOUR JURY SERVICE IS IMPORTANT AND NEEDED. HOWEVER, WE DO NOT WANT ANYONE TO FEEL UNCOMFORTABLE OR UNSAFE WHILE IN THE COURTHOUSE. IF YOU FEEL THAT YOU A HIGH RISK INDIVIDUAL FOR COVID-19, OR YOU ARE THE CARETAKER FOR A PERSON WHO IS A HIGH RISK INDIVIDUAL FOR COVID-19 OR IF YOU WERE RECENTLY EXPOSED TO AN INDIVIDUAL WHO TESTED POSITIVE FOR COVID-19, YOU MAY SEEK A DEFERRAL FROM JURY SERVICE BY CONTACTING THE OFFICE OF THE CLERK OF SUPERIOR COURT AT 210 N. MAIN STREET; ATTN: JURY CLERK, SALISBURY, NC 28144. I ENCOURAGE YOU TO SUBMIT THIS REQUEST FOR A DEFERRAL/EXCUSE PRIOR TO YOUR REPORTING DAY FOR JURY SERVICE. EARLY REQUESTS WILL PROTECT YOU AND OTHER MEMBERS OF THE COURTHOUSE COMMUNITY AND KEEP THE FOOT TRAFFIC IN THE COURTHOUSE TO A MINIMUM.

IF YOU BEGIN EXPERIENCING COVID-19 SYMPTOMS PRIOR TO YOUR SCHEDULED JURY SERVICE DATE, PLEASE INFORM THE CLERK OF COURT'S OFFICE AT 704-797-3035. IF YOU BEGIN EXPERIENCING COVID-19 SYMPTOMS DURING YOUR JURY SERVICE WHILE AT THE COURTHOUSE, PLEASE INFORM THE NEAREST COURT EMPLOYEE i.e., THE BAILIFF.

IF AT ANY TIME DURING YOUR JURY SERVICE YOU ARE CONCERNED ABOUT YOUR HEALTH OR SAFETY BECAUSE OF A LACK OF SAFETY MEASURES OR BECAUSE GUIDELINES ARE NOT BEING FOLLOWED (i.e. SOCIAL DISTANCING NOT BEING PRACTICED, NO HAND SANITIZER, ETC.) PLEASE BRING YOUR CONCERNS IMMEDIATELY TO THE ATTENTION OF THE PRESIDING JUDGE OR THE BAILIFF.

I THANK YOU IN ADVANCE FOR YOUR JURY SERVICE AND ASSURE YOU ONCE AGAIN THAT EVERY EFFORT IS BEING MADE AND WILL BE MADE TO ENSURE YOUR SAFETY AND WELL BEING WHILE SERVING AS A JUROR IN ROWAN COUNTY.

Safety Precautions While Serving as a Juror

These measures include:

1. All jurors and litigants and witnesses are required to pass through a temperature tunnel before entering the courthouse. Anyone having an elevated temperature will not be allowed entry and given further directions. Everyone entering the courthouse is required to wear a facemask while in the courthouse and courtrooms. If a juror does not have a facemask, one will be provided when he or she enters the courthouse.
2. Hand sanitizers are available throughout the courthouse and in the Jury Assembly and Jury Deliberations rooms.
3. Every effort will be made to practice social distancing during jury selection, jury trials and deliberations.
4. Spaces are marked throughout the courthouse at intervals of 6 feet to ensure social distancing. The Superior Courtroom has been reconfigured to allow social distancing for all involved in a trial. Particularly, jurors will be seated in individual chairs at least 6 feet apart to ensure social distancing.
5. The courtroom and jury area will be disinfected and cleaned throughout the day.
6. The direct exchange of documents and other items will be limited.
7. The attorneys will be required to provide copies for each juror of any exhibit they wish to publish to the jury to eliminate the passing of a single exhibit between jurors.
8. Jurors will be provided gloves prior to the handling of any exhibits offered by the attorneys.

9. Jury deliberations will be in a room large enough to practice social distancing among the jurors while deliberating.
10. The refrigerator will not be available for use because of health concerns. Therefore, you are encouraged to bring beverages, etc. for your own use.

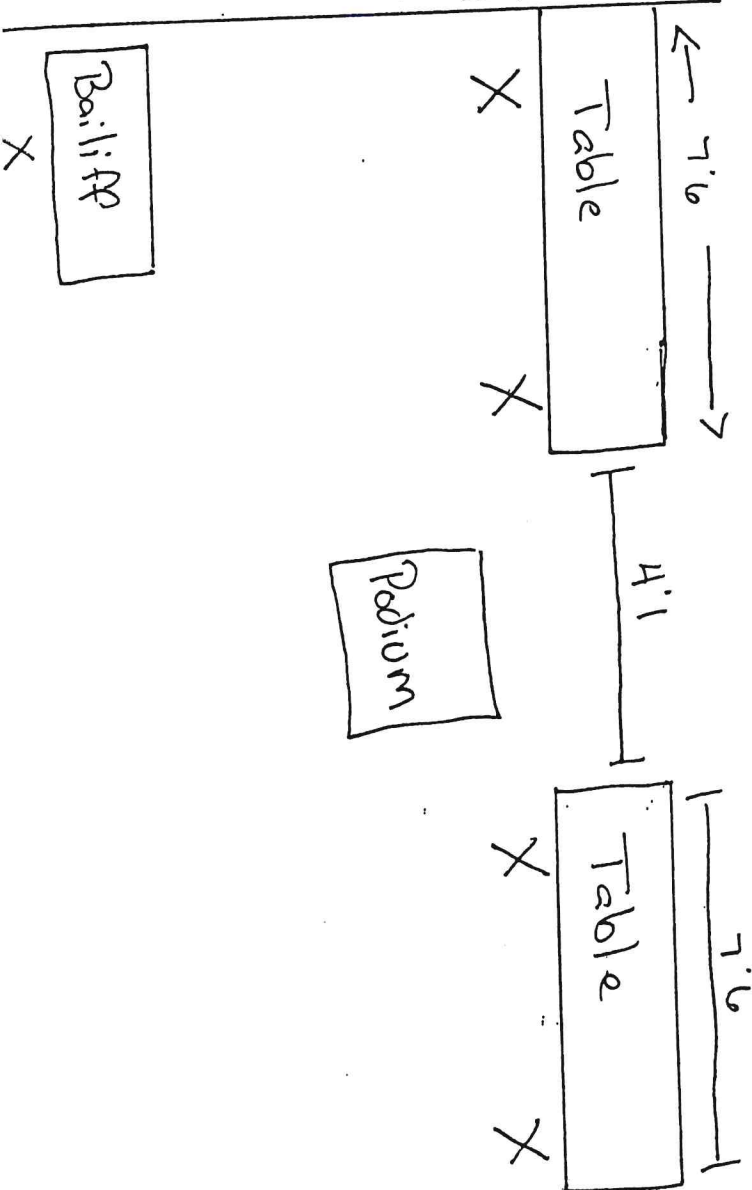
Attachment B

19-C

Not in Use

X X X

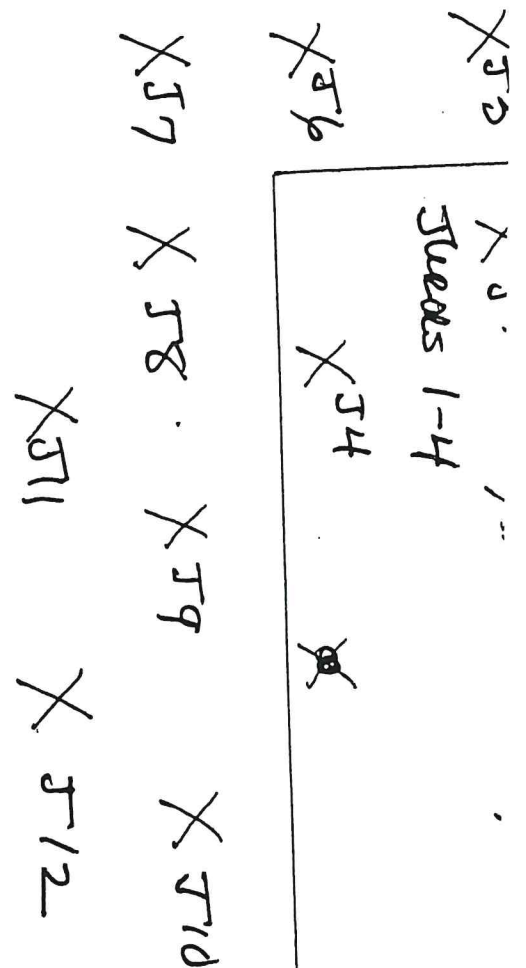
BAR



Not in Use

X Alternates X

BAR



Count
Reporter

X



DAILY JUROR COVID-19 SCREENING DOCUMENT

The purpose of this screening document is to assist the Court in protecting the health and safety of jurors throughout jury service. Responses will be used solely for the purpose of determining whether a juror can serve.

Note to Court: It is recommended that the Court order this document sealed in order to protect juror confidentiality.

Note to Clerk: Sealed documents shall be filed with the minutes of the court.

Juror Name (as it appears on the Juror Summons) _____

Date completed _____

1. Are you currently experiencing COVID-19 symptoms? ☐ YES ☐ NO

Since you last appeared at the courthouse:

2. Have you been diagnosed with/tested positive for COVID-19? ☐ YES ☐ NO

3. Have you been exposed to COVID-19? ☐ YES ☐ NO

4. Have you been directed to quarantine? ☐ YES ☐ NO

5. Has anyone in your household tested positive for COVID-19 or been directed to quarantine?
☐ YES ☐ NO

6. Have you been in close contact with anyone who has tested positive for COVID-19 or have you been notified by your county health department that you were or might have been in close contact with someone who tested positive for COVID-19? ☐ YES ☐ NO

7. Have you been tested for COVID-19 and are awaiting the test results? ☐ YES ☐ NO

I certify, under penalty of perjury, that I am the person named on the juror summons, and the information provided is true and accurate to the best of my knowledge.

Juror Signature